

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PA ADVISORS, LLC,

Plaintiff,

v.

GOOGLE, INC., et al,

Defendants

Civil Action No 2:07-cv-480-DF

JOINT CLAIM CONSTRUCTION CHART

Pursuant to P.R. 4-5(d), Plaintiff nXn Tech, LLC, f/k/a PA Advisor's LLC ("nXn") and Defendants Google Inc. and Yahoo! Inc. (collectively, "Defendants") hereby submit their Joint Claim Construction Chart.

Attached hereto as Exhibit A is the Joint Claim Construction Chart, which includes the currently disputed claim terms and phrases, the parties' proposed constructions, and a column for the Court's construction. Also submitted to the Court is a disk containing the above-referenced document in WordPerfect format.

DATED: September 9, 2009

Respectfully submitted,

/s/ Andrew Wesley Spangler
Spangler Law PC
208 N. Green St., Suite 300
Longview, TX 75601
903-753-9300
Fax: 903-553-0403
Email: spangler@spanglerlawpc.com

David Michael Pridham
David Pridham
Law Office of David Pridham
25 Linden Road
Barrington, RI 02806
401-633-7247
Fax: 401-633-7247
Email: david@PridhamIPLaw.com

Patrick Rolf Anderson
Patrick R. Anderson, PLLC
4225 Miller Rd., Bldg. B-9, Suite 358
Flint, MI 48507
517-303-4806
Fax: 248-928-9239
Email: patrick@prapllc.com

Ari Rafilson
The Rafilson Law Firm, PLLC
1318 Royal Palm Lane
Carrollton, TX 75007
(214) 789-4035
Fax: (972) 236-5397
Email: ari@rafilsonlawpllc.com

ATTORNEYS FOR PLAINTIFF
PA ADVISORS, LLC

John M. Bustamante
jmb@BustamanteLegal.com
BUSTAMANTE, P.C.
54 Rainey Street, No. 721
Austin, Texas 78701
Tel. 512.940.3753
Fax. 512.551.3773

Mark Fenster
Stanley Thompson
Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025
(310) 826-7474
Fax: (310) 826-6991
Email: mfenster@raklaw.com
Email: sthompson@raklaw.com

/s/ Jason C White
Howrey LLP - Chicago
321 North Clark Street
Suite 3400
Chicago, IL 60610
312/846-4680
Fax: 312/602-3986
Email: whitej@howrey.com

John Frederick Bufo
Potter Minton
P. O. Box 359
Tyler, TX 75710
903/597/8311
Fax: 903/5930846
Email: johnbufo@potterminton.com

Michael Edwin Jones
Potter Minton PC
110 N College
Suite 500
PO Box 359
Tyler, TX 75710-0359
903/597/8311
Fax: 903/5930846
Email: mikejones@potterminton.com

ATTORNEYS FOR DEFENDANT
YAHOO! INC.

/s/ Brian C Cannon
Quinn Emanuel Urquhart Oliver & Hedges -
Redwood
555 Twin Dolphin Dr
Suite 560
Redwood Shores, CA 94065
650/801-5000
Fax: 650/801-5100
Email: brian cannon@quinnemanuel.com

Charles K. Verhoeven
California Bar No. 170151
charlesverhoeven@quinnemanuel.com
Quinn Emanuel Urquhart Oliver & Hedges
LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
Tel: (415) 875-6600
Fax: (415) 875-6700

David J. Beck
Texas Bar No. 00000070
dbeck@brsfirm.com
Michael E. Richardson
Texas Bar No. 240002838
mrichardson@brsfirm.com
Beck Redden & Secrest
1221 McKinney Street, Suite 4500
One Houston Center
Houston, TX 77010-2020
Tel: (713) 951-3700
Fax: (713) 951-3720

ATTORNEYS FOR DEFENDANT
GOOGLE INC.

.

/

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service on the 9th of May, 2009. Local Rule CV-5(a)(3)(A).

/s/ Brian C. Cannon
Brian C. Cannon

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
1. A data processing method for enabling a user utilizing a local computer system having a local data storage system to locate desired data from a plurality of data items stored in a remote data storage system in a remote computer system, the remote computer system being linked to the local computer system by a telecommunication link, the method comprising the steps of:	A. Linguistic Pattern	A combination of various parts of speech (nouns, verbs, adjectives, etc.).	A repeating combination of various parts of speech (nouns, verbs, adjectives, etc.) that reflect the author’s cultural, educational, social backgrounds and the author’s psychological profile that occurs in texts composed by the author.	
	B. Segment	A part of a sentence.	One or more predetermined types of parts of speech arranged in a predetermined order.	

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>(a) extracting, by one of the local computer system and the remote computer system, a user profile from user linguistic data previously provided by the user, said user data profile being representative of a first linguistic pattern of the said user linguistic data;</p> <p>(b) constructing, by the remote computer system, a plurality of data item profiles, each plural data item profile corresponding to a different one of each plural data item stored in the remote data storage system, each of said plural data item profiles being representative of a second linguistic pattern of a corresponding plural data item, each said plural second linguistic</p>	C. User Profile/User Data Profile	A collection of information about a user.	A file containing information representative of a specific user’s linguistic patterns and the frequencies with which these patterns recur in texts that are: (i) submitted by the user or (ii) associated with the user and automatically acquired by the system, without identifying any background or private information about the user.	
	D. Data Item Profile	A collection of information about a data item.	A file containing a data item’s address, the linguistic patterns of the data item, and the frequencies with which those patterns recur.	
	E. Search Request Profile	A collection of information about a search request.	A file that includes information about the linguistic patterns in search request data.	

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
pattern being substantially unique to each corresponding plural data item ;	F. Psychological Profile	Information regarding the behavioral and/or personality traits of a person.	Indefinite; One or more profiles pertaining to mental processes.	
(c) providing, by the user to the local computer system, search request data representative of the user's expressed desire to locate data substantially pertaining to said search request data ;	G. Data Item	A document, web site or other piece of textual data that may be searched.	Documents, websites, and other textual data that may be subjected to a search by a user.	
(d) extracting, by one of the local computer system and the remote computer system, a search request profile from said search request data , said search request profile being representative of a third linguistic pattern of said search request data ;	H. User Linguistic Data*	Text, including text either generated or adopted by the user.	Textual data supplied by the user or adopted by that user as favorite that contain certain recurring linguistic patterns. The user linguistic data is not part of the user profile, but is the text from which the patterns are extracted to create the user profile.	
(e) determining, by one of the local computer	I. Text Item*	A piece of text.	A series of words that is long enough to be broken into sentences such that linguistic patterns can be extracted.	

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
system and the remote computer system, a first similarity factor representative of a first correlation between said search request profile and said user profile by comparing said search request profile to said user	J. Search Request Data*	A search string entered by a user to the system.	A search string entered by a user to the system that includes at least one linguistic pattern and that is representative of the data or information that the user wishes to locate.	

* The parties were unable to reach agreement as to the inclusion of these claim terms. Plaintiff’s position is that these claim terms were originally proposed for construction by Defendants, but were not addressed in either brief filed by Defendants. Consequently, nXn believes that no construction is necessary for these terms, and they are included in this chart at Defendants’ request. Defendant disagrees. See, e.g., Responsive Brief at pp. 19, 25.

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>profile;</p> <p>(f) determining, by one of the local computer system and the remote computer system, a plurality of second similarity factors, each said plural second similarity factor being representative of a second correlation between said search request profile and a different one of said plural data item profiles, by comparing said search request profile to each of said plural data item profiles;</p> <p>(g) calculating, by one of the local computer system and the remote computer system, a final match factor for each of said plural data item profiles, by adding said first similarity factor to at least one of said plural second similarity factors in accordance with at least one intersection between said first correlation and said second correlation;</p>	K. User Segment Count	[AGREED]	[AGREED]	The number of times that a segment appears in a segment group.

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
3. The method of claim 1, wherein said user linguistic data comprises at least one of: personal textual data generated by the user and favorite textual data generated by a source other than the user and that the user has adopted as being favorite.				
4. The method of claim 1, wherein said user linguistic data comprises at least one text item , each said at least one text item comprising at least one sentence.				
6. The method of claim 1, further comprising the step of: (l) prior to said step (a), determining, by one of the local computer system and the remote computer system, whether an existing user data profile is stored in one of the local data				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>storage system and the remote data storage system, and:</p> <p>1) when an existing user data profile is stored in one of the local data storage system and the remote data storage system, retrieving said existing user data profile and proceeding to said step (b); and</p> <p>2) when an existing user data profile is not stored in one of the local data storage system and the remote data storage system, proceeding to said step (a).</p>				
<p>43. The method of claim 1, wherein said step (h) comprises the steps of:</p> <p>(vvv) selecting, by one of the local computer system and the remote computer system, a portion of said plural data items corresponding to a</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>predetermined number of plural data item profiles having highest final match factors; and</p> <p>wherein said step (i) comprises the step of:</p> <p>(www) retrieving, by one of the local computer system and the remote computer system from the remote data storage system, said selected data items for display to the user, such that the user is presented with a group of data items having linguistic characteristics that substantially correspond to linguistic characteristics of the linguistic data generated by the user, whereby the linguistic characteristics of the data items correspond to the user's social, cultural, educational, economic background as well as to the user's</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>psychological profile.</p> <p>45. A data processing method for generating a user data profile representative of a user's social, cultural, educational, economic background and of the user's psychological profile, the method being implemented in a computer system having a storage system, comprising the steps of:</p> <p>(a) retrieving, by the computer system, user linguistic data previously provided by the user, said user linguistic data comprising at least one text item, each said at least one text item comprising at least one sentence;</p> <p>(b) generating, by the computer system, an empty user data profile;</p> <p>(c) retrieving, by the computer system, a</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>text item from said user linguistic data;</p> <p>(d) separating, by the computer system, said text item into at least one sentence;</p> <p>(e) extracting, from each of said at least one sentence, by the computer system, at least one segment representative of a linguistic pattern of each sentence of said at least one sentence;</p> <p>(f) adding, by the computer system, at least one segment extracted at said step (e) to said user data profile;</p> <p>(g) repeating, by the computer system, said steps (c) to (f) for each text item of said at least one text item in said user linguistic data;</p> <p>(h) generating at least one user segment</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>group, by the computer system, by grouping together identical segments of said at least one segment;</p> <p>(i) determining a user segment count, by the computer system, for each user segment group of said at least one user segment group, each said user segment count being representative of a number of identical segments in the corresponding user segment group of said at least one user segment group, and linking each said user segment count to the corresponding user segment group of said at least one user segment group;</p> <p>(j) sorting the user segment groups of said at least one user segment group, by the computer system, in an descending order of user segment counts</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>starting from a user segment group having a highest user segment count, and recording said user segment groups and corresponding user segment counts in said user data profile; and</p> <p>(k) storing, by the computer system, said user data profile, representative of an overall linguistic pattern of the user, in the data storage system, said overall linguistic pattern substantially corresponding to the user's social, cultural, educational, economic background and to the user's psychological profile.</p>				
<p>47. The method of claim 45, wherein said user linguistic data comprises at least one of: personal textual data generated by the user and favorite textual data generated</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
by a source other than the user and that the user has adopted as being favorite.				
56. The method of claim 45, wherein said step (k) further comprises the step of: (u) encrypting said user data profile such that said encrypted user data profile may only be utilized when an authorization is received from the user.				
60. A data processing system, comprising a computer system having a data storage system, for enabling a user of the computer system to locate desired data from a plurality of data items stored in the data storage system, the data processing system comprising: first extracting means for extracting a user profile from user				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>linguistic data previously provided by the user, said user data profile being representative of a first linguistic pattern of the said user linguistic data;</p> <p>first control means for constructing a plurality of data item profiles, each plural data item profile corresponding to a different one of each plural data item stored in the data storage system, each of said plural data item profiles being representative of a second linguistic pattern of a corresponding plural data item, each said plural second linguistic pattern being substantially unique to each corresponding plural data item;</p> <p>first input means for acquiring search request data from the</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>user, said search request data being representative of the user's expressed desire to locate data in the storage system substantially pertaining to said search request data;</p> <p>second extracting means, connected to said first input means, for extracting a search request profile from said acquired search request data, said search request profile being representative of a third linguistic pattern of said search request data;</p> <p>second control means, connected to said first extracting means and said second extracting means, for determining a first similarity factor representative of a first correlation between said search request profile and said user profile by comparing said search request</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>profile to said user profile;</p> <p>third control means, connected to said first control means and said second extracting means, for determining a plurality of second similarity factors, each said plural second similarity factor being representative of a second correlation between said search request profile and a different one of said plural data item profiles, by comparing said search request profile to each of said plural data item profiles;</p> <p>fourth control means, connected to said second an said third control means, for calculating a final match factor for each of said plural data item profiles, by adding said first similarity factor to at least one of said plural</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
<p>second similarity factors in accordance with at least one intersection between said first correlation and said second correlation;</p> <p>first selection means, connected to said fourth control means, for selecting one of said plural data items corresponding to a plural data item profile having a highest final match factor; and</p> <p>first retrieving means, connected to said first selection means, for retrieving, from the data storage system, said selected data item for display to the user, such that the user is presented with a data item having linguistic characteristics that substantially correspond to linguistic characteristics of the linguistic data</p>				

EXHIBIT A–PARTIES’ JOINT CLAIM CONSTRUCTION CHART

Claim	Disputed Term/Phrase for Construction	Plaintiff’s Proposed Construction	Defendant’s Proposed Construction	Court’s Construction
generated by the user, whereby the linguistic characteristics of the data item correspond to the user's social, cultural, educational, economic background as well as to the user's psychological profile .				
61. The method of claim 1, wherein the remote computer system comprises a plurality of computer systems connected to the Internet and the World Wide Web.				